

d/b/a Kindred Hospital – Dallas and Ridgecrest Healthcare and Rehabilitation Center (the “State Court Action”) was commenced on December 23, 2014, when Plaintiffs Tamara Lovern and Douglas Lovern, Individually and as the Legal Representative of Tamara Lovern (collectively “Plaintiffs”) filed Plaintiffs’ Original Petition and Request for Disclosure (the “Petition”) against Ridgecrest, Kindred Hospital Limited Partnership d/b/a Kindred Hospital – Dallas (“Kindred”), Mesquite Specialty Hospital, Sohail Parekh, MD, and Sohail Parekh Internal Medicine & Geriatric Care, PA in the 193rd Judicial District Court of Dallas County, Texas. *See* Exhibit 3.

2. When the State Court Action was originally filed, diversity jurisdiction did not exist as Sohail Parekh, MD is an individual residing in Dallas County, Texas and a citizen of the State of Texas. Further, Sohail Parekh Internal Medicine & Geriatric Care, PA is a Texas professional association whose members are citizens of the State of Texas.

Diversity Jurisdiction Now Exists Between the Parties in Interest

3. On May 27, 2015, Plaintiffs filed “Plaintiffs’ Notice of Nonsuit Without Prejudice Against Defendants Mesquite Specialty Hospital, Sohail Parekh, MD, and Sohail Parekh Internal Medicine & Geriatric Care, PA.” *See* Exhibit 21. That same day, Plaintiffs filed a Second Amended Petition that left Kindred and Ridgecrest as the only remaining defendants. *See* Exhibit 22. As shown below, neither Kindred nor Ridgecrest are citizens of the State of Texas for purposes of diversity jurisdiction. Therefore, federal jurisdiction based on diversity of citizenship first became available on May 27, 2015.

4. On June 25, 2015, both Plaintiffs’ counsel and Kindred’s counsel informed Ridgecrest’s counsel that Plaintiffs would be filing a nonsuit as to Kindred. *See* Exhibit 31. Therefore, Kindred’s consent to removal is not necessary.

5. Plaintiffs Tamara Lovern and Douglas Lovern, Individually and as the Legal Representative of Tamara Lovern were domiciled in the State of Texas at the time this action was commenced. Plaintiffs were at that time and are now citizens of the State of Texas.

6. Defendant Ridgecrest Healthcare and Rehabilitation Center is a corporation incorporated under the laws of the State of Delaware, having its principal place of business now and at the time this action was commenced in the state of Maryland. Therefore, for the purposes of diversity jurisdiction, Ridgecrest is a citizen of the state of Delaware and the state of Maryland.

7. Kindred Hospital Limited Partnership d/b/a Kindred Hospital – Dallas is a Kentucky limited partnership whose partners are now, and at the time this action was commenced, citizens of the state of Kentucky. Therefore, for the purposes of diversity jurisdiction, Kindred is a citizen of the state of Kentucky.

8. Plaintiffs' Second Amended Petition in the State Court Action filed on May 27, 2015 represents that the amount in controversy is over \$1,000,000, which exceeds \$75,000. *See* Exhibit 22.

9. This is a civil action over which this Court has original jurisdiction based on diversity of citizenship in that every defendant is now and was at the time the action was commenced diverse in citizenship from every plaintiff. 28 U.S.C. § 1332(a). This action is one which may be removed by Ridgecrest because there is diversity of citizenship between all plaintiffs and defendants. Plaintiffs are individuals who are citizens of the State of Texas, Ridgecrest is a citizen of the States of Delaware and Maryland, Kindred is a citizen of the State of Kentucky, and the amount in controversy exceeds \$75,000. 28 U.S.C. §§ 1332(a), (c), 1441 (b).

Notice of Removal

10. Ridgecrest was served with the Notice of Nonsuit and Second Amended Petition on May 27, 2015. This removal is timely, having being effected within thirty (30) days of receipt of Plaintiffs' Second Amended Petition pursuant to 28 U.S.C. § 1446(b) and within one year after the commencement of the State Court Action.

11. The State Court Action is removable to federal court under 28 U.S.C. §§ 1332, 1441, and 1446. The State Court Action is currently pending in a court located within the jurisdiction of the United States District Court for the Northern District of Texas, Dallas Division. Venue is proper in this federal judicial district because the Dallas Division of the United States District Court for the Northern District of Texas embraces the county where the state court action is pending (Dallas County, Texas).

12. In accordance with Local Rule 81.1, attached to this Joint Notice of Removal and incorporated herein are true and correct copies of the below documents filed in the State Court Action (except discovery material), along with an index of all such documents, the docket sheet in the State Court Action, a completed civil cover sheet, a supplemental civil cover sheet, and a signed certificate of interested persons:

- Exhibit 1: Index of all documents filed in the State Court Action
- Exhibit 2: A copy of the docket sheet in the State Court Action
- Exhibit 3: Plaintiffs' Original Petition
- Exhibit 4: Citation issued to all defendants
- Exhibit 5: Original Answer of Defendants Sohail Parekh, M.D. and Sohail Parekh Internal Medicine & Geriatric Care, P.A.
- Exhibit 6: Letter to Court WITH filing of Original Answer of Defendants Sohail Parekh, M.D. and Sohail Parekh Internal Medicine & Geriatric Care, P.A.

- Exhibit 7: Mediation Order
- Exhibit 8: Standing Scheduling Order
- Exhibit 9: Standing Order in Limine
- Exhibit 10: Original Answer of Defendant Mesquite Specialty Hospital and Demand for Jury Trial
- Exhibit 11: Original Answer of Ridgecrest Healthcare and Rehabilitation Center and Request for Disclosure
- Exhibit 12: Plaintiffs' First Amended Petition and Request for Disclosure
- Exhibit 13: Defendants' Joint Motion to Substitute Mediator
- Exhibit 14: Proposed Order regarding Defendants' Joint Motion to Substitute Mediator
- Exhibit 15: Order Denying Motion to Substitute Mediator
- Exhibit 16: Original Answer of Defendant Kindred Hospital Limited Partnership d/b/a Kindred Hospital – Dallas ("Kindred")
- Exhibit 17: Defendant Kindred's Motion to Compel Arbitration and Stay Litigation
- Exhibit 18: Vacation letter
- Exhibit 19: Notice of Hearing on Defendant Kindred's Motion to Compel Arbitration and Stay Litigation
- Exhibit 20: Notice of Change of Address and Firm Affiliation of Defendant Kindred
- Exhibit 21: Plaintiffs' Notice of Nonsuit Without Prejudice Against Defendants Mesquite Specialty Hospital, Sohail Parekh, MD, and Sohail Parekh Internal Medicine & Geriatric Care, PA
- Exhibit 22: Plaintiffs' Second Amended Original Petition
- Exhibit 23: Plaintiffs' Notice of Nonsuit Without Prejudice Against Defendants Mesquite Specialty Hospital, Sohail Parekh, MD, and Sohail Parekh Internal Medicine & Geriatric Care, PA (Duplicate; mis-identified on docket sheet as "Order – Nonsuit")

- Exhibit 24: Plaintiffs' Notice of Filing Chapter 74.351(a) Expert Reports
- Exhibit 25: Defendant Mesquite Specialty Hospital's Motion for Dismissal Pursuant to Tex. Civ. Prac. & Rem. Code §74.351
- Exhibit 26: Plaintiffs' Notice of Nonsuit With Prejudice Against Defendants Mesquite Specialty Hospital, Sohail Parekh, MD and Sohail Parekh Internal Medicine & Geriatric Care, PA
- Exhibit 27: Plaintiffs' Notice of Nonsuit With Prejudice Against Defendants Mesquite Specialty Hospital, Sohail Parekh, MD, and Sohail Parekh Internal Medicine & Geriatric Care, PA (Duplicate; mis-identified on docket sheet as "Order – Nonsuit")
- Exhibit 28: Amended Notice of Hearing on Defendant Kindred's Motion to Compel Arbitration and Stay Litigation
- Exhibit 29: Ridgecrest Healthcare and Rehabilitation Center's Objections to Plaintiffs' Chapter 74 Report and Motion to Dismiss
- Exhibit 30: Service of Process served on Ridgecrest Healthcare and Rehabilitation Center
- Exhibit 31: Declaration of J. Edward Johnson

13. Ridgecrest will promptly file a copy of this Joint Notice of Removal with the clerk of the 193rd Judicial District Court in Dallas County, Texas where the State Court Action has been pending. Kindred's consent is not necessary as Plaintiffs' nonsuit of Kindred is imminent.

14. In filing this Notice of Removal, Ridgecrest does not intend to waive any defenses or rights available to it in this action.

WHEREFORE, in conformance with the procedural requirements of 28 U.S.C. § 1446, Defendant Ridgecrest Healthcare and Rehabilitation Center removes Cause No. DC-14-14871; *Tamara Lovern and Douglas Lovern, Individually and as the Legal Representative of Tamara Lovern v. Kindred Hospital Limited Partnership d/b/a Kindred Hospital – Dallas and*

Ridgecrest Healthcare and Rehabilitation Center, currently pending in the 193rd Judicial District Court of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division.

Date: June 26, 2015.

Respectfully submitted,

MACDONALD DEVIN, P.C.

By: /s/Gregory N. Ziegler

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**ATTORNEYS FOR DEFENDANT
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REHABILITATION CENTER**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following counsel in accordance with the Federal Rules of Civil Procedure and Local Rules of this Court on this 26th day of June, 2015.

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